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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL (L) NO. 356 OF 2006

The Commissioner of Income Tax ... Appellant

Versus

Ms. Regal Shoes ... Respondent

Mr. B.M. Chatterjee with Mrs. P.P. Bhosale and Mr. P.S. Sahadevan for Appellant.

Mr. Percy Pardiwala with Ms. Chaitra Rao i/by M & M Legal Venture for the respondent.

CORAM: F.I. REBELLO &
J.P. DEVADHAR, JJ.
DATED: OCTOBER 03, 2007

P.C.:

. The tribunal by common order dated 26.5.2005 dismissed two appeals for the assessment years 1992-93 and 1993-94 as the combined tax effect was less than Rs. 1 lakh., relying on the judgment of this court in CIT Vs. Camco Colour Co. 254 ITR 555. It is this order which is the subject matter of the present appeal.

. On behalf of the Revenue, the learned counsel brings to our attention the instruction No. 1985 dated 29.6.2000 issued by the C.B.D.T. This instructions was issued in Revision/Clarification of Instruction No. 1979 dated 27.3.2000. The relevant portion of the instruction reads as under :

> "1. the memory limits in the context of "each case take singly" would mean each assessment year of each assessee considered in the case of XYZ Limited for Assessment Year 1995-96 and 12996-97, the monetary limit as prescribed in Instruction No. 1979 would apply taking together the assessment years 1995-96 and 19976-97."

. Even after having considered the said interpretation in the instant case, before the tribunal what was under consideration were assessment years 1992-93 and 1993-94 in respect of which the cumulative tax incidence was less than Rs.1 lakh. Nothing has been brought to our attention to indicate that the attention of the tribunal was brought to any other appeals in respect of the assessee for any other assessment years making the tax incidence over Rs. 1 lakh.

. Considering the above, in our opinion, the conclusion arrived at by the tribunal really speaking cannot be faulted on the facts before it. We have therefore, clarified the law. However, on the facts of this case, in our opinion, the question of law will not arise. Consequently, appeal disposed of.

(J.P. DEVADHAR, J.) **(F.I.REBELLO, J.)**